

INTERNATIONAL OIL POLLUTION COMPENSATION FUND
FONDS INTERNATIONAL D'INDEMNISATION POUR LES DOMMAGES
DUS A LA POLLUTION PAR LES HYDROCARBURES

EXECUTIVE COMMITTEE -
2nd session
Agenda item 7

FUND/EXC.2/4
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ADOPTION OF THE REPORT UNDER ARTICLE 26.2
OF THE FUND CONVENTION

Note by the Director

1. According to Article 26.2 of the Fund Convention, the Executive Committee shall prepare and publish a report of the activities of the Fund during the previous calendar year.
2. A draft report covering the period from the entry into force of the Fund Convention till the end of the calendar year 1979 is herewith submitted to the Executive Committee for consideration and adoption. The Executive Committee is invited to decide in what form this report shall be published.

DRAFT REPORT OF THE EXECUTIVE COMMITTEE ON THE
ACTIVITIES OF THE INTERNATIONAL OIL POLLUTION
COMPENSATION FUND DURING 1978 AND 1979

A. GENERAL

Entry into Force of Convention and Membership

1. The International Convention of 18 December 1971 on the Establishment of an International Fund for Compensation of Oil Pollution Damage entered into force on 16 October 1978. The States parties to the Convention at that date were: Algeria, Bahamas, Denmark, France, Federal Republic of Germany, Ghana, Japan, Liberia, Norway, Sweden, Syrian Arab Republic, Tunisia, United Kingdom (including Hong Kong) and Yugoslavia. The Government of Tuvalu declared by letter of 25 June 1979 to be bound by the Convention from the date of independence of the Tuvalu Islands (1 October 1978).
2. During the period 1978/79 the Convention entered into force for Indonesia on 30 November 1978, for Italy on 28 May 1979 and for Monaco on 21 November 1979.

Setting-up of the Organization

3. The International Oil Pollution Compensation Fund (IOPC Fund) was set up on 13 November 1978 with the opening of the IOPC Fund's first session of the Assembly. Mr. J. Bredholt (Denmark) was elected Chairman of the Assembly, and Mr. V. Stalio (Yugoslavia) and Mr. S. Ben Ammar (Tunisia) were elected Vice-Chairmen.
4. On 17 November 1978, Dr. R.H. Ganten was appointed Director of the IOPC Fund for a term of four years.
5. During the period 1978/79 the Assembly held two meetings. At the Assembly's second session, held from 17 to 20 April 1979, the Executive Committee was established. The following members were appointed: France, Japan and United Kingdom (elected under Article 22.2(b) of the Fund Convention) and Liberia, Sweden, Tunisia and Yugoslavia (elected under Article 22.2(a)). The Executive Committee held its first session on 20 April 1979.

Professor H. Tanikawa (Japan) was appointed Chairman of the Executive Committee and Mr. H. Boussoffara (Tunisia) was elected Vice-Chairman.

Decisions of the Assembly and the Executive Committee

6. The most important decisions taken by the Assembly at its first and second sessions and by the Executive Committee were the following:

- (a) The Assembly decided that the Headquarters of the IOPC Fund shall be located in London. A Headquarters Agreement between the United Kingdom Government and the IOPC Fund was signed on 27 July 1979 and entered into force on that day.
- (b) An Agreement on Co-operation between the IOPC Fund and the Inter-Governmental Maritime Consultative Organization (IMCO) was adopted and signed by the Director and the Secretary-General of IMCO on 11 December 1979; it entered into force on the same day.
- (c) The maximum limit of 450 million francs up to which the IOPC Fund can be held liable under the Fund Convention (Article 4.4) was raised to 675 million francs, according to Article 4.6 of the Fund Convention. The higher amount applies to incidents occurring after 20 April 1979.

According to a resolution adopted by the Assembly at its first session, the term "franc" is to be converted into national currencies in a way which follows the method adopted by the Protocol of 19 November 1976 to the Fund Convention. Accordingly, 15 francs equal one Special Drawing Right and the conversion of the Special Drawing Right is made in accordance with the method of evaluation applied by the International Monetary Fund in effect on the date in question for its operations and transactions.

In connection with the increase of the maximum level of liability, the Assembly adopted a resolution requesting IMCO to consider the desirability of revising the limits under the 1969 Civil Liability Convention and the 1971 Fund Convention.

- (d) The Assembly adopted at its second session the Fund's budget for the period 1978/79. It was further decided that the Fund should maintain a working capital of £2 million. The person at the time performing the duties of the Comptroller and Auditor General of the United Kingdom was appointed External Auditor of the Fund.
- (e) For the purpose of determining the initial contributions, in accordance with Article 11 of the Fund Convention, the Assembly decided that the fixed sum for each ton of contributing oil received by persons in Contracting States shall amount to 0.04718 francs. At its second session, the Assembly decided to fix the annual contributions for 1979 at a total amount of £750,000.
- (f) In accordance with Article 5.4 of the Fund Convention, the International Regulations for Preventing Collisions at Sea, 1960, referred to in Article 5.3(a)(iv), were replaced by the Convention on the International Regulations for Preventing Collisions at Sea, 1972, with effect from 1 June 1979.
- (g) The Fund's Internal Regulations (dealing i.a. with details of collection of contributions, claims settlement) and the Staff Regulations were adopted. An intersessional Working Group adopted draft Financial Regulations for the Fund dealing i.a. with the Fund's accounts and the investment policy. These Regulations will be considered for final adoption by the Fund's Assembly at its third session in March 1980.

B. ACTIVITIES OF THE IOPC FUND

7. The IOPC Fund's activities in the first year of its operations were mainly in four different areas:

- the building up of the Secretariat;
- the establishment of contact with Contracting States;
- the collection of contributions;
- the settlement of claims.

Building up of the Secretariat

8. Although the Fund's Secretariat is small in size, it took some time and effort to build it up, to appoint the staff members and to prepare and adopt the necessary documentation and the regulations and rules including provisions on social security for the staff members.

9. The system of remuneration of the staff members follows very closely the United Nations common system as applied by IMCO. The IOPC Fund's Staff Regulations, as adopted by the Assembly, and the Staff Rules, as issued by the Director, correspond to IMCO's Regulations and Rules.

10. At the end of the calendar year 1979 the personnel of the IOPC Fund consisted of the Director, one Professional Officer, one Administrative Assistant and two Secretaries.

Establishment of Contact with Contracting States

11. The Director visited several Contracting States to discuss with the Governments, contributors and other organizations in those States, questions and problems that had arisen with respect to the administration of the Fund Convention and the interpretation of its provisions. These contacts proved to be useful in respect of achieving a uniform interpretation of the provisions of the Fund Convention in Contracting States. In particular, problems that had arisen regarding the reports on contributing oil receipts to be made by Governments according to Article 15 of the Fund Convention and payment of contributions required consultation between Governments and the Director.

12. At visits to conferences and seminars, the Director had talks with representatives of non-Contracting States on the possibility of these States joining the Fund.

Collection of Contributions

13. The Fund collected initial contributions and annual contributions for the year 1979. The total amount of initial contributions collected within 1978/79 was £1,646,394. For annual contributions for the calendar year 1979 the invoices were only sent out in October 1979 and an amount of £547,384 was collected.

Settlement of Claims

14. The Fund became liable for incidents that occurred after 13 February 1979. From that day to 31 December 1979 six incidents occurred in respect of which the IOPC Fund has been, or may be, asked to pay compensation.

(i) Antonio Gramsci, 27 February 1979

The Soviet tanker "Antonio Gramsci" grounded on 27 February 1979 off Ventspils, USSR (Baltic Sea). As a result of the grounding the tanker lost about 5,500 tons of crude oil.

About five weeks after that incident the Swedish Archipelago near Stockholm was polluted by oil. The Swedish Government claims that this oil was part of the oil released by the "Antonio Gramsci". The expenses for clean-up operations undertaken by and on behalf of Swedish authorities amount to about 112 million Swedish Crowns. The Swedish Government has asked the IOPC Fund for compensation in respect of this amount minus the share the Swedish Government is able to obtain from the limitation fund set up by the Latvian Shipping Company as the owner of the "Antonio Gramsci" at the People's Court of Riga (USSR). The limitation fund amounts to 2,431,584 Soviet Roubles.

So far, no payments have been made with respect to this claim.

(ii) Miya Maru No.8, 22 March 1979

On 22 March 1979 the Japanese motor tanker "Miya Maru No.8" 997 GRT collided with the motor vessel "Daikoku Maru No.18" in the Japanese Inland Sea. The Miya Maru suffered hull damage and released about 540 tons of heavy oil.

The oil drifted to several islands in the Inland Sea and polluted beaches and fishing grounds. Third party claims made against the IOPC Fund and the Owner for clean-up costs and fishery damage amount to ¥77,820,922. In addition, the Owner incurred ¥27,645,081 for clean-up operations. The limitation fund established under the 1969 Civil Liability Convention amounts to ¥37,710,340.

The third party claims have been paid out by the IOPC Fund and the Owner. Payments to the Owner for his clean-up operations and for indemnification under Article 5 of the Fund Convention have not yet been made.

(iii) Gino, 28 April 1979

The Liberian tanker "Gino" collided with the Norwegian tanker "Team Castor" on 28 April 1979 off Ushant, France. The "Gino" was laden with more than 40,000 tons of carbon black oil. She sank a few hours after the collision with the oil remaining in the cargo tanks.

The amount of pollution damage likely to be caused by this incident is not yet known. It may remain well below the shipowner's limit of liability under the Civil Liability Convention, which is approximately \$4 million.

(iv) Tarpenbek, 21 June 1979

On 21 June 1979 the German tanker "Tarpenbek" collided with the British Royal Fleet Auxiliary "Sir Geraint" off Selsey Bill. The "Tarpenbek" was loaded with about 1,600 tons of different lubricating oils. Three days after the incident the tanker capsized but no damage occurred to the cargo tanks. The ship lost only little bunker oil which was dispersed by detergents.

The ship was towed to a sheltered bay off the Isle of Wight and in difficult and lengthy operations most of the cargo was pumped out of the capsized ship. After this unloading operation the ship was parbuckled and towed to Rotterdam.

No formal claims have so far been received for pollution damage. The limit of liability under the Civil Liability Convention is about £86,000.

(v) Vera Berlingieri, 26 June 1979

On 26 June 1979 the Italian tanker "Vera Berlingieri" (7,220 tdw) collided with the French motor carrier "Emmanuel Delmas" (16,051 tdw). The "Vera Berlingieri" was loaded with gasoline and gasoil and about 5,200 tons of this cargo was spilt and burnt.

So far it has not been established whether the cargo is "persistent oil" as defined in the 1969 Civil Liability Convention and, therefore, whether the IOPC Fund will be liable for any damage. The shipowner's liability is estimated at about £220,000. The extent of the pollution damage is not yet known. No formal claim has so far been made to the IOPC Fund.

(vi) Mebaruzaki Maru No.5, 8 December 1979

On 8 December 1979 at Mebaruzaki, Osaki-Kamishima Island (Japan), the "Mebaruzaki Maru No.5", 19.73 GRT, loaded with heavy oil, took water through a bilge in the stern and sank. About ten tons of the cargo escaped into the sea and polluted Nori sea-weed farms near to the incident. The damage to Nori and the expenses for clean-up may amount to about ¥12 million (£22,000); the Owner's liability under the 1969 Civil Liability Convention is ¥736,000 (£1,338).

C. CONCLUDING REMARKS

15. In the first year of the IOPC Fund's activities, the Director has enjoyed very good relations and friendly co-operation with the Inter-Governmental Maritime Consultative Organization at the premises of which the Fund has its offices. Contacts and collaboration with other organizations such as the Oil Companies Institute for Marine Pollution Compensation Ltd, the Oil Companies International Marine Forum (OCIMF), the International Tanker Owners' Pollution Federation Ltd and the International Group of P & I Clubs were very valuable. Without the assistance of representatives of these organizations it would not have been possible for the Fund to deal effectively with incidents and the settlement of claims immediately after the setting up of the IOPC Fund.
